

**REMARKS**

This Amendment and Reply is intended to be completely responsive to the Non-Final Office Action mailed February 6, 2009. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow. Claims 10, 11 and 18-23 have been canceled without prejudice to further prosecution on the merits. Claims 1, 3-5, 8 and 13 have been amended. New Claims 24-26 have been added. No new matter has been added. Accordingly, Claims 1, 3-9, 13-17 and 24-26 will be pending in the present Application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

**Drawings**

On pages 2-3 of the Detailed Action, the Examiner objected to the drawings under 37 C.F.R. § 1.83(a). On page 2, the Examiner noted that the drawings must show every feature of the invention specified in the claims, and asserted that “the working example of the pivot point, support structure movably coupled to the base, a user interface as well as the electrical connection of the electric vehicle controls and the hinge must be shown or the feature(s) canceled from the claim(s). On page 3, the Examiner asserted that reference numerals 27 and 30 are not shown in Figures 10 and 11 on the basis that reference numeral 27 is not shown and reference numeral 30 is not disclosed as storage as described in the specification.

With regard to the subject matter of a pivot point, a support structure movably coupled to a base and a user interface, Applicants submit that an example of each of these features is shown in the drawings. For example, an example of a pivot is shown in Figures 10 and 11 as a pivot shaft 27, an example of a support structure movably coupled to a base is shown in Figures 1-7 as a support member 42, and an example of a user interface is shown in Figures 1-8 as a gear shift lever 44. With regard to the subject matter of the electrical connection of the electric vehicle controls and the hinge, in an effort to advance the prosecution of the present Application,

Applicants have elected cancel such subject matter from the claims without prejudice to further prosecution on the merits and/or amend the claims so that such subject matter is now recited as a functional limitation. Despite canceling and/or amending such subject matter, Applicants believe that the present Applicants sufficiently supports the inclusion of such subject matter in the claims because a drawing of such features would not be necessary to understand the claimed invention.

With regard to the reference numerals in Figures 10 and 11, Applicants have amended these Figures to include reference numeral 27 to identify the pivot shaft that was already included in the drawings, and note that reference numeral 30 is used throughout the specification to generally refer to articles that may be located on the base or console. Applicants submit that the inclusion of reference numeral 30 in Figures 10 is proper because it is pointing to the location at which the articles may be supported, as described in paragraph [0056].

Accordingly, Applicants respectfully request withdrawal of the objection to the drawings under 37 C.F.R. § 1.83(a).

### **Claim Rejections – 35 U.S.C. § 112**

On page 4 of the Detailed Action, the Examiner rejected Claims 3-5, 11, 13, 16 and 17 under 35 U.S.C. § 112, ¶ 1 as failing to comply with the enablement requirement. The Examiner alleged that “[t]he claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.” Specifically, the Examiner alleged that “[a] working example of the claimed features must be presented for the invention, for example the electrical connections for the vehicle controls how the transmission control module can be locked in position and how the control modules are pivotally connected to the base and how the base is moveably coupled to the vehicle.”

With regard to the subject matter of the electrical connections for the vehicle controls, Applicants note that the claims have been amended so that this subject matter is only recited as a functional limitation. Nonetheless, Applicants submit that one of ordinary skill in the art, after

reviewing the present Application, would understand the subject matter recited in the claims as previously presented. The present Application recites in paragraph [0008] that the transmission control can be electrically coupled to the transmission using shift by-wire technology that replaces the mechanical linkage existing between a user interface and the transmission with an electronic system which produces an electric output signal corresponding to the position of the user interface. With regard to the subject matter of the transmission control module being locked in position, Applicants note that this subject matter has been canceled from the claims without prejudice to further prosecution on the merits. With regard to the subject matter of the control module being pivotally coupled to the base, Applicants direct the Examiner's attention to paragraphs [0050]-[0051], and submit that one of ordinary skill in the art, after reviewing these paragraphs, would understand how the control module could be pivotally coupled to the base. With regard to the subject matter of the base being movably coupled to the vehicle, Applicants direct the Examiner's attention to paragraphs [0036], [0056] and [0058], and submit that one of ordinary skill in the art, after reviewing these paragraphs, would understand how the base could be movably coupled to the vehicle.

Accordingly, Applicants respectfully request withdrawal of the rejection to Claims 3-5, 13, 16 and 17 under 35 U.S.C. § 112, ¶ 1. Applicants note that Claim 11 has been canceled without prejudice to further prosecution on the merits.

#### **Allowable Subject Matter**

On page 7 of the Detailed Action, the Examiner indicated that Claims 13, 16 and 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112 set forth below and to include all of the limitations of the base claim and any intervening claims.

Applicants thank the Examiner for this notice of allowable subject matter. Applicants have chosen to rewrite Claim 13 in independent form to include all of the limitations of its base claim and any intervening claims. As detailed above, Applicants have amended the claims to address the issues raised by the Examiner under 35 U.S.C. § 112. Accordingly, Applicants request favorable consideration and allowance of independent Claim 13. Dependent Claims 8, 9,

16, 17 and 24-26, which depend from independent Claim 13, are allowable therewith for at least the reason of their dependency, without regard to the further patentable limitations set forth in such claims.

Despite rewriting Claim 13 in independent form, Applicants wish to make it unmistakably clear that they do not agree to or acquiesce in the rejection under 35 U.S.C. § 103 detailed below. Claim 13 has been rewritten in independent form only to obtain prompt allowance of claims reciting subject matter indicated as allowable by the Examiner.

### **Claim Rejections – 35 U.S.C. § 103**

On pages 4-7 of the Detailed Action, the Examiner rejected Claims 1, 3-5, 8, 9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,536,825 to McAndrew et al. (“McAndrew et al.”) in view of U.S. Patent No. 6,948,582 to Shiomi et al. (“Shiomi et al.”). This rejection should be withdrawn because McAndrew et al., alone or in any proper combination with Shiomi et al., fails to disclose, teach or suggest the claimed invention.

For example, independent Claim 1 (as amended) recites a “console” comprising, among other elements, a “vehicle transmission control module [that] is configured to move between a first position wherein the storage receptacle is at least partially concealed by the vehicle transmission control module and a second position wherein the storage receptacle is accessible to a user” and that “the vehicle transmission control module is configured to be usable by the user in both the first position and the second position to control a vehicle transmission.”

McAndrew et al., alone or in any proper combination with Shiomi et al., fails to disclose, teach or suggest such a console. In contrast, McAndrew et al. discloses a “control panel 10” having a “door panel 40” that is movably mounted on a “housing 18” for pivoting between a closed position and an open position (col. 2, lines 12-37). A first bank of controls are supported on the “door panel 40,” while a second bank of controls are supported on a bottom panel of the “housing 18” (col. 2, line 56 – col. 3, line 11). As shown in Figure 4, the first bank of controls are inaccessible to a user when the “door panel 40” is moved to the open position. As such, McAndrew et al. does not disclose, teach or suggest a control module is configured to be usable

by the user in both the first position and the second position as required by independent Claim 1 (as amended). Applicants submit that Shiomi et al. does not correct the deficiency in McAndrew et al., and note that the Examiner only cited to Shiomi et al. for allegedly disclosing a vehicle transmission control for electrically controlling the gear selection of a vehicle.

Accordingly, Applicants respectfully request withdrawal of the rejection of independent Claim 1 because at least one element of such claim is not disclosed, taught or suggested by McAndrew et al., alone or in any proper combination with Shiomi et al. Applicants submit that Claims 3-5, as they depend from Claim 1, are allowable therewith at least because of their dependency, without regard to the further patentable subject matter set forth in such claims. As noted above, Claims 8 and 9 now depend from independent Claim 13, and Claim 11 has been canceled without prejudice to further prosecution on the merits. Reconsideration and withdrawal of the rejection of Claims 1 and 3-5 is respectfully requested.

#### **New Claims**

Applicants have added new Claims 24-26 to provide claims of varying scope. New Claims 24-26 depend from independent Claim 13, which the Examiner has already indicated recites allowable subject matter. Accordingly, Applicants submit that new Claims 24-26 are allowable therewith at least because of their dependency, without regard to the further patentable subject matter set forth in such claims.

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Applicants believe that the present Application is now in condition for allowance. In particular, even when the elements of Applicants' claims, as discussed above, are given a broad construction and interpreted to cover equivalents, the cited references do not teach, disclose, or suggest the claimed subject matter. Favorable reconsideration of the present Application as amended is respectfully requested.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent

application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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